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General and complete disarmament: follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

Note by the Secretary-General

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Introduction

1. In its resolution 52/38 O of 9 December 1997, entitled "Advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*", the General Assembly requested all States to inform the Secretary-General of the efforts and measures they had taken on the implementation of the resolution and nuclear disarmament, and requested the Secretary-General to apprise the Assembly of that information at its fifty-third session.

2. Pursuant to that request, information has been received thus far from Malaysia and New Zealand. Any additional information received from Member States will be issued as addenda to the present report.

Information received from Governments

Malaysia

[Original: English]
[16 July 1998]

1. Malaysia has signed (1968) and ratified (1970) the Treaty on the Non-Proliferation of Nuclear Weapons. It views the Nuclear Non-Proliferation Treaty as a universal regime established by the international community to stem the spread of nuclear weapons, which continue to pose a serious threat to international peace and security.

2. Malaysia is taking active steps to sign the Comprehensive Nuclear-Test-Ban Treaty before the end of July 1998. Malaysia believes that the Treaty constitutes an important contribution in the efforts to prevent the proliferation of nuclear weapons and towards the process of nuclear disarmament, thereby enhancing international peace and security.

3. Malaysia has been requested by the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty to host a verification facility (radionuclide monitoring station) which is part of the international monitoring system of the Treaty. Arrangements are being made with the Preparatory Committee on the establishment of the said facility.

4. Malaysia has participated actively in international efforts aimed at achieving nuclear disarmament. Malaysia believes that the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons* on 8 July 1996 is a pronouncement by the highest international legal authority and is therefore of historic importance. Malaysia had presented two written submissions, in June 1994 and in June 1995 and had also made an oral presentation on 7 November 1995 to the International Court of Justice (ICJ) in which it had strongly supported the argument that the possession of nuclear weapons and any threat and use of such weapons were illegal under international law. The opinion of the World Court should have a direct and positive impact on the policies and obligations of Member States in the area of nuclear disarmament and in the global efforts towards nuclear disarmament.

5. As a Member State that had taken the initiative to introduce the two relevant resolutions at the fifty-first and fifty-second sessions of the General Assembly on the ICJ advisory opinion, Malaysia will continue to work actively with other Members of the United Nations to ensure the implementation of the resolutions, in particular with regard to the obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

6. Malaysia's actions in the area of non-proliferation of nuclear weapons and nuclear disarmament are guided by its consistent position and commitment towards the complete elimination of nuclear weapons, which have been articulated at the various international forums such as the May 1995 Non-Proliferation Treaty Review and Extension Conference in New York and the Commonwealth Heads of Government meeting in Auckland in November 1995, as well as at the Conference on Disarmament in Geneva and the General Assembly.

7. Malaysia is fundamentally opposed to nuclear tests undertaken by any country. Malaysia strongly supports the overwhelming international opinion against such tests and has consistently issued official statements reiterating its continued opposition to nuclear testing, including those that were conducted recently despite the overwhelming adoption of the Comprehensive Nuclear-Test-Ban Treaty.

8. At the regional level, Malaysia has worked actively within the Association of South-East Asian Nations (ASEAN) to establish the South-East Asia Nuclear-Weapon-Free Zone which would contribute to further enhancing regional peace and security. The Zone, which entered into force on 27 March 1997, is an important contribution to the process of nuclear disarmament and reflects the genuine commitment of the States of South-east Asia towards achieving common disarmament goals. Malaysia had ratified the Treaty of Bangkok on 11 October 1996 and looks forward to the accession of the nuclear-weapon States to the Protocol to that Treaty at an early date.

9. Malaysia, which is currently an observer to the Conference on Disarmament, applied for full membership of the Conference on 3 September 1993. Malaysia hopes to play a positive and constructive role by joining the Conference as a full member. Malaysia is dismayed at the continuing impasse at the Conference as a result of the differing positions between the nuclear-weapon and non-nuclear-weapon States on both the approaches and substantive aspects of the work of the Conference, which in turn has raised questions about its future role and effectiveness. The continued paralysis of the Conference will not only undermine the usefulness and relevance of this single multilateral negotiating forum on disarmament but also increase the risks of it being sidelined, as recent events have proved. Malaysia believes that the working methods and decision-making process of the Conference on Disarmament should be re-examined and improved so as to enhance its effectiveness as a negotiating forum. Malaysia hopes that the Conference on Disarmament can be the vehicle for negotiations on the nuclear weapons convention as envisaged in resolution 52/38 O.

10. Malaysia welcomes the efforts of the Secretary-General to revitalize the work of the United Nations in the disarmament field. Malaysia also welcomes the reconstitution of the Centre for Disarmament Affairs into the Department for Disarmament Affairs. Malaysia reiterates its view that the new department should give priority attention to nuclear disarmament, even as it grapples with other equally pressing aspects of disarmament in general.

11. Malaysia acknowledges the importance of the ongoing bilateral and unilateral arrangements aimed at reducing the current nuclear weapons stockpiles undertaken by the United States of America and the Russian Federation through the Strategic Arms Reduction Treaty (START) process. Bilateral negotiations on nuclear disarmament have a place in the disarmament agenda and, in fact, have contributed significantly to the reduction of nuclear weapons, as evidenced by the START I and START II processes, which should logically lead to early negotiations for a START III. However, Malaysia believes that this does not absolve the nuclear-weapon States from their obligation to engage in multilateral negotiations on nuclear disarmament in all its aspects, involving other members of the

international community, which have an equal responsibility to pursue the goals of nuclear disarmament.

New Zealand

[Original: English]
[30 June 1998]

1. New Zealand is firmly committed to nuclear disarmament. In particular, it has undertaken the following nuclear disarmament-related activities in the period from December 1997 to the end of June 1998:

1. Comprehensive Nuclear-Test-Ban Treaty

2. On 30 June 1998, the Government introduced into Parliament the Nuclear-Test-Ban Bill, which will implement the obligations of the Comprehensive Nuclear-Test-Ban Treaty in New Zealand law. It is intended that the legislation be enacted before the end of 1998. This will enable ratification of the Treaty by New Zealand.

3. New Zealand is also continuing to work in the Preparatory Commission in Vienna and domestically on the steps needed to build up the international monitoring system for the Treaty. New Zealand will host six monitoring stations for the Treaty.

2. Conference on Disarmament

4. New Zealand supported the proposal by South Africa for the establishment within the Conference on Disarmament of an ad hoc committee on nuclear disarmament. While the establishment of such a committee has not as yet been agreed, there was agreement to hold intensive consultations on nuclear issues and to establish an ad hoc committee on nuclear security assurances. New Zealand is participating fully in those deliberations.

5. New Zealand strongly supports and has consistently advocated the immediate commencement in the Conference on Disarmament of negotiations on a fissile material cutoff treaty. New Zealand regards this as an essential next step.

3. Preparatory Committee for the 2000 Review Conference on the Nuclear Non-Proliferation Treaty

6. As it had at the first session of the Preparatory Committee in 1997, at the second session, held at Geneva from 27 April to 8 May 1998, called on the nuclear-weapon States to commit themselves unequivocally to the elimination of nuclear weapons and to commence immediately the practical steps and negotiations which would contribute to that end. New Zealand also highlighted the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue and conclude negotiations on nuclear disarmament, which is the subject of paragraph 1 of resolution 52/38 O.

4. India/Pakistan Nuclear Testing

7. In numerous statements in multilateral bodies and in bilateral contacts, New Zealand has condemned, unequivocally, the recent nuclear testing by India and Pakistan. New Zealand has also called upon both countries to sign and ratify, unconditionally, the Comprehensive Nuclear-Test-Ban Treaty, adhere to the Nuclear Non-Proliferation Treaty and engage immediately in negotiations on a fissile material cutoff treaty.

5. Ministerial Declaration on Nuclear Disarmament

8. Together with the Ministers for Foreign Affairs of Brazil, Egypt, Ireland, Mexico, Slovenia, South Africa and Sweden, New Zealand on 9 June 1998 issued the Declaration entitled "Towards a Nuclear-Weapon-Free World: the Need for a New Agenda". The Declaration builds on the finding of the International Court of Justice. It also calls for interim steps to reduce the nuclear threat, such as those recommended by the Canberra Commission. It calls upon the nuclear-weapons-capable States to sign and ratify the Comprehensive Nuclear-Test-Ban Treaty and adhere to the Non-Proliferation Treaty. It also calls upon the nuclear-weapon States and the nuclear-weapons-capable States to give a clear commitment to the speedy, final and total elimination of nuclear weapons. It calls for immediate practical steps, such as de-alerting and de-activating weapons; for negotiations on a binding No First Use agreement, and for negotiations on a ban on the production of fissile material. The text of the Declaration is reproduced below:

"Towards a Nuclear-weapon-free world: the need for a new agenda

"Joint Declaration by the Ministers for Foreign Affairs of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden, adopted at Brasilia, Cairo, Dublin, Ljubljana, Mexico City, Pretoria, Stockholm and Wellington, on 9 June 1998

"We, the Ministers for Foreign Affairs of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden have considered the continued threat to humanity represented by the perspective of the indefinite possession of nuclear weapons by the nuclear-weapon States, as well as by those three nuclear-weapons-capable States that have not acceded to the Treaty on the Non-Proliferation of Nuclear Weapons, and the attendant possibility of the use or threat of use of nuclear weapons. The seriousness of this predicament has been further underscored by the recent nuclear tests conducted by India and Pakistan.

"We fully share the conclusion expressed by the commissioners of the Canberra Commission in their Statement that 'the proposition that nuclear weapons can be retained in perpetuity and never used – accidentally or by decision – defies credibility. The only complete defence is the elimination of nuclear weapons and assurance that they will never be produced again.'

"We recall that the General Assembly of the United Nations already in January 1946, in its very first resolution, unanimously called for a commission to make proposals for 'the elimination from national armaments of atomic weapons and all other major weapons adaptable to mass destruction.' While we can rejoice at the achievement of the international community in concluding total and global prohibitions on chemical and biological weapons by the Conventions of 1972 and 1993, we equally deplore the fact that the countless resolutions and initiatives which have been guided by similar objectives in respect of nuclear weapons in the past half-century remain unfulfilled.

"We can no longer remain complacent at the reluctance of the nuclear-weapon States and the three nuclear-weapons-capable States to take that fundamental and requisite step, namely a clear commitment to the speedy, final and total elimination of their nuclear weapons and nuclear weapons capability, and we urge them to take that step now.

"The vast majority of the membership of the United Nations has entered into legally binding commitments not to receive, manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices. These undertakings have been made in the context of the corresponding legally binding commitments by the nuclear-weapon States to the pursuit of nuclear disarmament. We are deeply concerned at the persistent reluctance of the nuclear-weapon States to approach their Treaty obligations as an urgent commitment to the total elimination of their nuclear weapons.

"In this connection we recall the unanimous conclusion of the International Court of Justice in its 1996 advisory opinion that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

"The international community must not enter the third millennium with the prospect that the maintenance of these weapons will be considered legitimate for the indefinite future, when the present juncture provides a unique opportunity to eradicate and prohibit them for all time. We therefore call upon the Governments of each of the nuclear-weapon States and the three nuclear-weapons-capable States to commit themselves unequivocally to the elimination of their respective nuclear weapons and nuclear weapons capability and to agree to start work immediately on the practical steps and negotiations required for its achievement.

"We agree that the measures resulting from such undertakings leading to the total elimination of nuclear weapons will begin with those States that have the largest arsenals. But we also stress the importance that they be joined in a seamless process by those with lesser arsenals at the appropriate juncture. The nuclear-weapon States should immediately begin to consider steps to be taken to this effect.

"In this connection we welcome both the achievements to date and the future promise of the START process as an appropriate bilateral, and subsequently plurilateral mechanism including all the nuclear-weapon States, for the practical dismantlement and destruction of nuclear armaments undertaken in pursuit of the elimination of nuclear weapons.

"The actual elimination of nuclear arsenals, and the development of requisite verification regimes, will of necessity require time. But there are a number of practical steps that the nuclear-weapon States can, and should, take immediately. We call upon them to abandon present hair-trigger postures by proceeding to de-alerting and de-activating their weapons. They should also remove non-strategic nuclear weapons from deployed sites. Such measures will create beneficial conditions for continued disarmament efforts and help prevent inadvertent, accidental or unauthorized launches.

"In order for the nuclear disarmament process to proceed, the three nuclear-weapons-capable States must clearly and urgently reverse the pursuit of their respective nuclear weapons development or deployment and refrain from any actions which could undermine the efforts of the international community towards nuclear disarmament. We call upon them, and all other States that have not yet done so, to adhere to the Non-Proliferation Treaty and take the necessary measures which flow from adherence to that instrument. We likewise call upon them to sign and ratify the Comprehensive Nuclear-Test-Ban Treaty without delay and without conditions.

"An international ban on the production of fissile material for nuclear weapons or other nuclear explosive devices (cut-off) would further underpin the process towards the total elimination of nuclear weapons. As agreed in 1995 by the States parties to the Non-Proliferation Treaty, negotiations on such a convention should commence immediately.

"Disarmament measures alone will not bring about a world free from nuclear weapons. Effective international cooperation to prevent the proliferation of these weapons is vital and must be enhanced through, *inter alia*, the extension of controls over all fissile material and other relevant components of nuclear weapons. The emergence of any new nuclear-weapon State, as well as any non-State entity in a position to produce or otherwise acquire such weapons, seriously jeopardizes the process of eliminating nuclear weapons.

"Other measures must also be taken pending the total elimination of nuclear arsenals. Legally binding instruments should be developed with respect to a joint no-first-use undertaking between the nuclear-weapon States and as regards non-use or threat of use of nuclear weapons against non-nuclear-weapon States, so called negative security assurances.

"The conclusion of the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba, establishing nuclear-weapon-free zones, as well as the Antarctic Treaty have steadily excluded nuclear weapons from entire regions of the world. The further pursuit, extension and establishment of such zones, especially in regions of tension, such as the Middle East and South Asia, represents a significant contribution to the goal of a nuclear-weapon-free world.

"These measures all constitute essential elements which can and should be pursued in parallel: by the nuclear-weapon States among themselves, and by the nuclear-weapon States together with the non-nuclear-weapon States, thus providing a road map towards a nuclear-weapon-free world.

"The maintenance of a world free of nuclear weapons will require the underpinnings of a universal and multilaterally negotiated legally binding instrument or a framework encompassing a mutually reinforcing set of instruments.

"We, on our part, will spare no efforts to pursue the objectives outlined above. We are jointly resolved to achieve the goal of a world free from nuclear weapons. We firmly hold that the determined and rapid preparation for the post-nuclear era must start now."

Luiz Felipe **Lampreia**
Minister for Foreign Affairs
Brazil

David **Andrews**
Minister for Foreign Affairs
Ireland

Don **McKinnon**
Minister for Foreign Affairs
New Zealand

Lena **Hjelm-Wallen**
Minister for Foreign Affairs
Sweden

Amr Mohammad **Moussa**
Minister for Foreign Affairs
Egypt

Rosario **Green**
Minister for Foreign Affairs
Mexico

Boris **Frlec**
Minister for Foreign Affairs
Slovenia

Alfred **Nzo**
Minister for Foreign Affairs
South Africa